IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.3836 OF 2005

Dada Baburao Bhange & Anr. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Rahul S. Kate for the Applicants
Mr.K.V.Saste,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : JULY 4,2005.

P.C.:

1. Heard Counsel appearing for the parties. The Applicants are the accused along with others in F.I.R. registered for offence punishable under Sections 302, 201, read with 34 of the Indian Penal Code and Section 3 (2) (v) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act,1989. It is not in dispute that two co-accused Prakash Arade and Vijay Bhange have been enlarged on bail under the orders of the Sessions Court. The Application for bail made by the Applicants is rejected by the learned Sessions Judge on the ground that the daughter of the deceased viz. Shubhangi has stated in her statement that her deceased father was taken away by the Applicants herein on a motor cycle at about 9.30 a.m. from one Sangram Dhaba and the dead body of her father was found at 6.00 p.m. in the evening on the same day. The learned Judge was of the view that the Applicants were last seen together with the deceased.

2. The learned Advocate for the Applicants submitted that the

statement of the independent witness Pushparsingh discloses that the deceased did not leave the Dhaba on the motor cycle along with the Applicants and the deceased walked away from the said Dhaba. The learned A.P.P. pointed out that even the wife of the deceased who is the first informant has stated that the Applicants and the deceased were last seen together.

3. The statement of daughter of the deceased Shubhangi discloses that at 6.00 in the morning she got up and thereafter her father Bapu left the house and again came back. At about 8.30 a.m. the Applicants herein came to the house of the deceased and they took the deceased on motor cycle to the nearby Sangram Dhaba. When she visited the said Dhaba at 9.30 a.m. she saw the Applicants taking the deceased on a motor cycle towards the side of Solapur and on the same day at 6.00 p.m. in the evening the dead body of her father was found in the field. The statement of the complainant who is the wife of the deceased discloses that the Applicants along with Vijay Bhange and Prakash Arade came to the house of the deceased at 8.30 a.m. and after talking to her husband, her husband sat on motor cycle in between the Applicant No.2 herein and other co-accused Prakash Arade and motor cycle left by Pune-Solapur Highway in the direction of Solapur. Pushparsingh appears to be the owner of the said Dhaba. His version appears to be different. He has stated that in the morning on the relevant date eight persons who were with the deceased had a cup of tea and the deceased consumed alcohol. He stated that thereafter

all the persons left on motor cycle and the deceased walked away. Thus, it appears that apart from the statement by the daughter of the deceased, the other material witnesses have not supported the prosecution theory that the applicants and the deceased were last seen together on a motorcycle. The version of the wife of the deceased is that the deceased went away with the Applicants herein alongwith two other accused who have been already enlarged on bail. In view of the fact situation and considering that the two co-accused have been enlarged on bail, a case is made out for enlarging the Applicants on bail.

4. Hence I pass the following order :

i) The Applicants shall be enlarged on bail in connection with C.R.No.62 of 2005 registered with Indapur Police Station, subject to furnishing a personal bonds in the sum of Rs.25,000/- (Rupees twenty five thousand only) each with one solvent surety in the like amount.

ii) The bail is granted subject to the condition that the Applicants shall attend the Indapur Police Station every Sunday between 10.00 a.m. to 12.00 a.m. till filing of the charge sheet.

iii) The Bail is granted subject to condition that the Applicants shall not, directly or indirectly, make any

inducement or threat to any prosecution witnesses and shall not in any manner tamper with prosecution evidence.

iv) The Applicants shall cooperate with the learned Trial Judge for expeditious disposal of the trial. Any attempt by the Applicant to delay the trial may be a ground for cancellation of bail.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) Application is disposed of in above terms.

vii) The parties to act upon an authenticated copy of this order.

JUDGE